

REMARKS

Claims 1, 2, 6, 11, 12, 14, 15, 18, 19, 23, 26, 31, 36, 37, 39, 41, 45, 52, 53, 56-58, 66 and 67 have been amended. Claims 5 and 63-65 have been canceled without prejudice. Claim 30 was previously canceled without prejudice. New claims 70-72 are added. Claims 1-4, 6-29, 31-62 and 66-72 are pending in the application.

Claims 66 and 67 have been amended to address the objections in paragraphs 1 and 2 of the final Office action. Applicants respectfully request that the objections be withdrawn.

The amendments to the claims and new claims 70-72 are supported by the application as filed and do not present new matter. (See, e.g., p. 6, lines 15-24 (describing ingredient that is solid or semi-solid and that partially or completely liquefies when heated); p. 16, lines 1-6 (shapes of gelatinous ingredient). Other amendments place the claims in better form.

Reconsideration of the application, as amended, is respectfully requested.

I. Remarks In The Final Action Concerning The “Ingredient.”

Applicants respectfully request clarification regarding which ingredient is the asserted “ingredient” recited in Applicants’ claims.

Paragraph 4 of the final Office action and Paragraph 10 of the first Office action assert that the ingredient described in col. 5, lines 60-65 of Housley is a “gelatinous ingredient” recited in Applicants’ claims. Col. 5, lines 60-65 of Housley refers to “feeding run-off liquids (e.g., water, oil, grease, etc.) through the openings 36 and into the underlying collection reservoir 34.”

In paragraph 12 of the final Office action, the Examiner concedes that grease is extracted from the food item and appears to rely on water as the “ingredient” recited in Applicants’ claims. In particular, the examiner states:

“The grease that is extracted from the food item, but the water and oil are added [sic] to the food or added [sic] to the apparatus before cooking. When steaming [sic] the food item such as vegetables, because during cooking water is vaporized and applied to the vegetables and makes them taste better. Therefore, water is considered an ingredient that is [sic] applied to the vegetables.” (emphasis added).

In the following sentence in paragraph 12 of the final Office action, the Examiner states

“Many food items such as beef, pork, chicken etc...are required adding oil (olive oil, sesame oil, peanut oil, etc.) before cooking on order to add flavor to the cooking food, therefore, oil is considered is a gelatinous ingredient that is applied to the cooking food.”

Thus, based on this statement, it appears that oil is the asserted ingredient.

Clarification if respectfully requested - is the asserted “ingredient” water, oil or grease?

Although the examiner concedes that grease is extracted from a food item, the Examiner, fails to acknowledge that Housley only describes oil and grease in the context of run-off liquids that drain or are extracted from a food item. (See, e.g., Abstract; col. 2, lines 61-64; col. 5, lines 62-64; col. 9, lines 60-62; col. 10, lines 18-21), and only describes water that is added to the cooking apparatus for steaming purposes. (See, e.g., col. 6, lines 60-65). Clarification concerning paragraph 12 and its application to Housley is respectfully requested.

II. Rejections And Remarks Do Not Comply With 35 U.S.C. §132 And 37 C.F.R. §1.104(c).

Under 35 U.S.C. §132, “Whenever, on examination, any claim for a patent is rejected, . . . the Director shall notify the applicant thereof, stating the reasons for such rejection, . . . together with such information and references as may be useful in judging of the propriety of continuing the prosecution of his application...” 37 C.F.R. §104(c)(2) states “In rejecting claims for want of novelty or for obviousness, the Examiner must cite the best references at his or her command. When a reference is complex or shows or describes inventions other than that claimed by the applicant, the particular part relied on must be designated as nearly as practicable. The pertinence of each reference, if not apparent, must be clearly explained and each rejected claim specified.”

Applicants respectfully submit that the Examiner rejected various claims without clearly providing the basis of the rejection, contrary to the requirement set forth above. In particular, in the January 7, 2005 Amendment, Applicants amended claim 1 to call for “an ingredient for application to the food item, wherein the ingredient is not extracted from the food item...”

(emphasis added). Claims 63-65 included similar limitations (which are now incorporated into their respective independent claims).

In paragraph 4 of the final Office action, the Examiner rejected claim 1 and claims 63-65 as being anticipated by Housley and cites col. 5, lines 60-65 of Housley as describing a gelatinous ingredient. As previously discussed, col. 5, lines 60-65 of Housley describes run-off liquids (e.g., water, oil, grease, etc.) that are extracted from the food item in Housley, col. 5, line 67 - col. 6, line 1. The final Office action, however, is silent regarding how these run-off liquids can be an “ingredient” that is not extracted from the food item as recited in Applicants’ claims when they are extracted from the food item. In fact, the Examiner concedes that grease is extracted from the food item. (Final Office action, para. 12.) Thus, the rejection is inconsistent with the Examiner’s own concession and Housley, which explains that oil and grease and other run-off liquids are extracted from the food item, contrary to Applicants’ claims.

Moreover, the Examiner rejected new claims 59-62 and 66-69 without explaining the basis for the rejection and how Housley anticipates these claims.

Further, Applicants note that the Examiner includes an assertion regarding “not extracted from the food item” in paragraph 5 of the final Office action concerning the newly cited Danley patent. However, the Examiner does not clearly explain how Danley anticipates claim 59 and how the identified “water” ingredient is gelatinous and has a defined shape.

In order to expedite prosecution of the application, Applicants submit the above amendments and the following remarks. If any rejection stands following this Amendment, Applicants respectfully request the Examiner clearly set forth the basis for rejecting each claim in accordance with 35 U.S.C. §132 and 37 C.F.R. §104(c)(2) and to address all of the claim elements.

III. Claims 1, 2, 6, 14, 15, 18, 19, 23, 27-29, 31, 39-42, 45, 47, 49, 50, 53, 56 And 66-69 Novel Over Housley.

Independent claims 1, 15, 39 and 53 and respective dependent claims 2, 6, 14, 15, 18, 19, 23, 27-29, 31, 40-42, 45, 47, 49, 50, 56 and 66-69 were rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,988,045 to Housley (“Housley”). A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a prior art reference MPEP § 2131. The Applicants respectfully traverse the rejection. In order to expedite prosecution of the application, the Applicants have amended independent claims 1, 15, 39 and 53 and submit the following remarks.

A. Runoff Liquids That Are Extracted From a Food Item Are Excluded From Being An Ingredient As Recited In Applicants’ Claims.

Independent claim 1 recites in part “a solid or semi-solid gelatinous ingredient for the food item, wherein said gelatinous ingredient is not extracted from the food item being prepared...” Independent claims 15, 39 and 53 include similar “not extracted from the food item being prepared” limitations.

The Examiner concedes that the grease run-off described in Housley is extracted from the food item. (Final Office Action, para. 12).

Moreover, Housley, consistent with the Examiner’s concession, explains that run-off liquids (e.g., water, oil, grease, etc.) are extracted from food items. (Housley, col. 5, line 67).

Housley explains that water (which is separate from the run-off liquids) can be introduced into a portion of the dimensional periphery of the reservoir 34 to steam food items. (Housley, col. 6, lines 60-65). Housley, however, does not refer to adding oil, contrary to the Examiner’s remarks in paragraph 12 of the final Office action and does not refer to adding a gelatinous ingredient.

Correspondingly, the Examiner’s concession concerning extracted run-off liquids (water, oil, grease) and the description provided by Housley exclude water, oil and grease that are extracted from the food item from being an “ingredient” as recited in Applicant’s claims, regardless of whether grease and oil could be added to a food item to taste. Thus, Housley is

clearly deficient with respect to independent claims 1, 15, 39 and 53 and the rejection cannot stand.

B. The Run-Off Liquids Identified By The Examiner Are Not “Gelatinous”.

Applicants respectfully submit that Housley clearly does not disclose or suggest “a solid or semi-solid gelatinous ingredient” as called for by independent claim 1. Independent claims 15, 39 and 53 include similar “gelatinous” limitations. The application describes the gelatinous ingredient as having a gelatinous base that includes, e.g., an agar gum and corn syrup solids. (Application, p. 12, line 10 - p. 14, line 27).

As discussed above, Housley explains that the run-off water, oil and grease are not gelatinous and instead, are liquids. (Housley, col. 5, line 63) (“run-off liquids”).

Clearly, water is not gelatinous. The Examiner also asserts that oil that drains from the food item is gelatinous. Applicants respectfully disagree in view of Housley, which refers to such oils as run-off liquids. (Housley, col. 5, line 63.) Accordingly, the Examiner’s assertion is inconsistent with the cited reference, and the Examiner has not set forth reasons why the asserted ingredients are indeed gelatinous.

Thus, Applicants respectfully submit that Housley is deficient relative to independent claims 1, 15, 39 and 53.

C. Run-Off Liquids Identified By The Examiner Are Not “Solid or Semi-Solid” Ingredients.

Applicants respectfully submit that Housley clearly does not disclose or suggest “a solid or semi-solid gelatinous ingredient...” as recited in independent claim 1. Claims 70-72 also include “solid or semi-solid” limitations. As discussed above, the Examiner refers to water, oil and grease (Housley, col. 5, lines 62-64) as being the asserted “ingredient” recited in independent claim 1.

The water, oil and grease described by Housley, however, are not solids or semi-solids. Rather, Housley plainly refers to them as run-off liquids. (Housley, col. 5, line 63 (“run-off liquids”). Correspondingly, the identified ingredients are not solid or semi-solid and, therefore, Housley is clearly deficient with respect to independent claim 1.

D. Run-Off Liquids Identified By The Examiner Do Not “At Least Partially Liquefy Or Melt From A Solid Or Semi-Solid State.”

Applicants' independent claim 1 calls for “when said gelatinous ingredient is heated, said gelatinous ingredient at least partially liquefies or melts from the solid or semi-solid state and generates steam...” New dependent claims 70-72 include similar limitations.

As discussed above, the Examiner refers to run-off liquids (water, oil and grease) as the ingredient recited in claim 1. Since they are already liquids, as described by Housley, they are not a solid or semi-solid and do not partially liquefy or melt from a solid or semi-solid state when heated.

E. Run-Off Liquids Identified By The Examiner Do Not Generate Steam That Rises Through Grill Apertures And Is Applied To A Food Item.

Independent claim 15 calls for “said gelatinous ingredient being located in said lower housing section and below said grill so that steam from heating said gelatinous ingredient is applied to the food item through the apertures of said grill.” Independent claims 39 and 53 include similar limitations. Dependent claim 27 calls for steam from said gelatinous ingredient being applied to a bottom surface of the food item.”

Housley describes a configuration in which a reservoir 34 is positioned below the bottom surface of the grill in order to collect the run-off liquids. In order to collect the run-off liquids, the collection reservoir 34 has a solid bottom. If the bottom were not solid, then the run-off liquids could not be collected, and the described reservoir would not be functional.

Consequently, any steam that is generated from heating water is blocked by the reservoir 34 and, therefore, does not pass through the grill apertures. Thus, the steam would not be applied to the bottom of the food. Moreover, water that is added to the cooking apparatus described by Housley for purposes of steaming is introduced into a periphery of the reservoir 34, not in a lower housing section.

Therefore, the Examiner's assertions regarding claims 15, 34, 39 and 53 are contrary to Housley.

F. Run-Off Liquids Identified By The Examiner Do Not Have A Defined Shape.

Dependent claims 59-62 recite limitations related to the gelatinous ingredient having defined shape..."

As discussed above, the Examiner refers to the run-off liquids (Housley, col. 5, lines 62-64) as being the asserted "ingredient". As liquids, they do not have defined shapes. Rather, the run-off liquids described in Housley adopt the shape of the container holding them.

Housley, therefore, cannot support the rejection in view of these deficiencies.

G. Run-Off Liquids Do Not Pass Through Grill Apertures To A Bottom Section.

Dependent claim 14 calls for "said grill being arranged so that a liquid from said heated food item passes through the apertures to a bottom section of said microwaveable housing." Dependent claims 23 and 45 include similar limitations. In other words, liquid run-off from a heated food item passes down through grill apertures, e.g., due to gravity, and into the bottom of the housing. Housley, in contrast, does not disclose or suggest these limitations.

Housley, in contrast, describes an apparatus having a grill 30, which includes a collection reservoir 34. Run-off liquids do not drop down to the bottom of the cooking apparatus. Instead, they are collected by the reservoir 34 that is suspended above the bottom of the apparatus. For example, Housley explains:

In cooperation with the plurality of openings 36, collection channels 38 may be formed in the upper cooking surface 32 so as to provide means for feeding run-off liquids (e.g., water, oil grease, etc.) through the openings 36 and into the underlying collection reservoir 34 of the cooking grill 30. Functionally, the collection reservoir 34 of the cooking grill 30 provides means for collecting run-off liquids extracted from food item(s) positioned on or suspended above the upper cooking surface 32. The liquids generally flow by way of gravity into the collection channels 38 which tend to divert the fluid flow through the openings 36 formed in the upper cooking surface 32 of the cooking grill 30 and into the collection reservoir 34 for accumulation. (Housley, col. 5, line 55 - col. 6, line 5) (emphasis added).

Accordingly, the Examiner's assertions concerning claims 14, 23 and 45 are contrary to Housley.

H. Water That Is Added To The Cooking Apparatus Described By Housley Does Not Include A Flavoring, Coloring Or Aroma.

Dependent claims 6-13 include limitations directed to the ingredient having various flavorings, an aroma and a coloring. Claims 31-38 and 56-58 include similar limitations.

In paragraph 12 of the final Office action, the Examiner asserts that water that is used to steam vegetables is considered an ingredient. The Examiner, however, does not explain how this relates to Housley.

Nevertheless, Applicants note that it is well known that water is tasteless, colorless and scentless. In other words, the ingredient identified by the Examiner does not include a flavoring, a coloring or an aroma as called for by claims 6-13, 31-38 and 56-58. Further, flavoring, color and aroma cannot come from grease and oil that are extracted or drains from a food item being prepared, as discussed above in section III. A, since all of the claims include a limitation directed to the gelatinous ingredient not being extracted from the food item.

I. Water That Is Added To The Cooking Apparatus Described By Housley Is Not Below The Grill.

Independent claims 1, 15, 39 and 53 include limitations that state that a gelatinous ingredient is below the grill.

Water that is introduced into the cooking apparatus is the only “ingredient” that is described in Housley that is not extracted from the food item. In particular, water is added for steaming. (Housley, col. 6, lines 60-65).

In the event that the Examiner asserts that the added water is an “ingredient” as recited in Applicants’ claims, Applicants note that such an argument must fail because the added water is introduced into a portion of the grill, i.e., into a periphery of a collection reservoir. Consequently, the added water is not positioned below the grill, since it is added to the grill. For example, Housley explains:

“In addition, water may be introduced into the collection reservoir of the cooking grill to provide device for steaming the food item(s) disposed within the second environment.” (Housley, Abstract) (emphasis added).

If desired, water may be introduced into at least a portion of the dimensional periphery of the collection reservoir 34 of the cooking grill 30 in order to facilitate means for steaming one or more food items positioned one or above the upper cooking surface 32 of the cooking grill.” (Housley, col. 6, lines 60-65) (emphasis added).

Housley, therefore, cannot support the rejection.

J. Water That Is Added To The Cooking Apparatus Is Not In A Reservoir Formed In A Lower Housing Section.

Dependent claim 29 recites in part “said gelatinous ingredient being positioned in a reservoir formed in said lower housing section.” Claim 47 includes a similar limitation. Claims 66-69 include limitations directed to the gelatinous ingredient being positioned on a bottom surface of the lower housing section.

As discussed above, water that is added for steaming is the only “ingredient” that is not extracted from the food item. In the event that the Examiner asserts the added water is an “ingredient,” Applicants note that Housley describes a configuration in which water is added to a collection reservoir 34 of a grill 30, which is suspended above the bottom of the unit and supported by support members 22a-c. Housley, therefore, is deficient relative to claims 29, 47 and 66-69.

IV. Dependent Claims 3, 20-22, 43, 44 And 54 Are Patentable Over Housley In View Of Koochaki.

Dependent claims 3, 20-22, 43, 44 and 54 were rejected under 35 U.S.C. §103(a) as being unpatentable over Housley in view of U.S. Patent No. 6,229,131 to Koochaki (“Koochaki”). To establish a prima facie case of obviousness of a claim under 35 U.S.C. §103(a), all of the claim limitations must be taught or suggested by the prior art. All words in a claim must be considered in judging the patentability of that claim against the prior art. MPEP §2143.03. Moreover, there must be some suggestion or motivation to modify the reference. MPEP §2143.01

Koochaki, however, does not cure the multiple deficiencies of Housley discussed above and has its own deficiencies. Accordingly, the Applicants respectfully request that the rejection of dependent claims 3, 20-22, 43, 44 and 54 under 35 U.S.C. §103(a) be withdrawn.

V. Dependent Claims 4, 24-26, 46 And 55 Are Patentable Over Housley In View Of Levinson.

Dependent claims 4, 24-26, 46 and 55 were rejected under 35 U.S.C. §103(a) as being unpatentable over Housley in view of U.S. Patent No. 4,923,704 to Levinson ("Levinson"). Levinson does not cure the multiple deficiencies of Housley discussed above and has its own deficiencies. Accordingly, the Applicants respectfully request that the rejection of dependent claims 4, 24-26, 46 and 55 under 35 U.S.C. §103(a) be withdrawn.

VI. Dependent Claims 3, 20-22, 43, 44, 48 And 54 Are Patentable Over Housley In View Of Craft.

Dependent claims 3, 20-22, 43, 44, 48 and 54 were rejected under 35 U.S.C. §103(a) as being unpatentable over Housley in view of U.S. Patent No. 6,018,157 to Craft ("Craft"). Craft does not cure the multiple deficiencies of Housley discussed above and has its own deficiencies. Applicants respectfully request that the rejection of dependent claims 3, 20-22, 43, 44, 48 and 54 under 35 U.S.C. §103(a) be withdrawn.

VII. Dependent Claims 16, 17, 51 And 52 Are Patentable Over Housley In View Of Barnes.

Dependent claims 16, 17, 51 and 52 were rejected under 35 U.S.C. §103(a) as being unpatentable over Housley in view of U.S. Patent No. 6,608,292 to Barnes ("Barnes"). Barnes does not cure the multiple deficiencies of Housley discussed above and has its own deficiencies. Further, the required suggestion or notation to combine the references is lacking.

Barnes describes a microwave grilling appliance that includes a pair of grill elements, each having heat conducting elements and troughs that are formed in the periphery of the grill elements. The grill elements, however, do not have apertures.

Housley, on the other hand, describes a utensil that includes a single grill element having apertures, and a food item that is placed on top of the grill. Liquid that drains from the food item passes through the apertures, and is collected by a reservoir that is suspended above the bottom of the utensil.

Applicants respectfully request that the rejection of dependent claims 16, 17, 51 and 52 under 35 U.S.C. §103(a) be withdrawn in view of the shortcomings.

VIII. Dependent Claims 7-13, 32-38, 57 And 58 Are Patentable Over Housley In View Of Choy.

Dependent claims 7-13, 32-38, 57 and 58 were rejected under 35 U.S.C. §103(a) as being unpatentable over Housley in view of GB 2,308,465 to Choy (“Choy”). Choy does not cure the multiple deficiencies of Housley discussed above and has its own deficiencies. Applicants respectfully request that the rejection of dependent claims 7-13, 32-38, 57 and 58 under 35 U.S.C. §103(a) be withdrawn.

IX. Claims 1-3, 6, 14 And 66 Are Novel Over Danley.

The only remaining rejection is the rejection of independent claim 1 and dependent claims 2, 3, 6, 14 and 66 under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 4,477,705 to Danley (“Danley”). Applicants kindly acknowledge that the remaining pending claims 4, 7-13, 15-29, 31-62 and 66-69 are considered novel and non-obvious over Danley.

With respect to claims 1-3, 6, 14 and 66, Applicants respectfully request that the rejection of claims 1-3, 6, 14 and 66 be withdrawn in view of the current amendments and remarks, which clearly eliminate Danley from further consideration.

The Examiner asserts that water is the “ingredient” recited in Applicants’ claims. As discussed above, however, water is not gelatinous, is not a solid or semi-solid, does not at least partially melt or liquefy from a solid or semi-solid state since it is already a liquid, is tasteless, colorless and odorless, and does not have a defined shape.

In view of the amended claims, Applicants respectfully request that the §102(b) rejection of claims 1-3, 6, 14 and 66 based on Danley be withdrawn.

X. CONCLUSION.

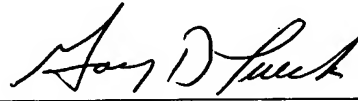
Based on the forgoing amendments and remarks, the Applicants respectfully submit that the application is in condition for allowance and respectfully request that a timely Notice of Allowance be issued in this case. If there are any remaining issues that can be resolved by telephone, Applicants invite the Examiner to contact the undersigned at the number indicated below.

Respectfully submitted,

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